



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: September 06, 2023.

A handwritten signature in black ink, appearing to read "Mike Parker", written over a horizontal line.

**MICHAEL M. PARKER
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:

FERNANDO ALFONSO GARZA,

DEBTOR.

**KEVIN MICHAEL EPSTEIN
UNITED STATES TRUSTEE FOR REGION 7,**

PLAINTIFF,

v.

**NEW HORIZON ABODE, LLC,
DANNITNESS MATTHEY,
DENNIS MORENO,
ESPI PROPERTIES, LLC, &
CRYSTAL BARRAGAN,**

DEFENDANTS.

CASE NO. 23-50802-MMP

CHAPTER 7

ADVERSARY NO. 23-05080-MMP

ORDER OPENING MISCELLANEOUS PROCEEDING

On August 8, 2023, the Court heard its *Order to Appear and Show Cause* (ECF No. 14) in Case No. 23-50802-mmp (“**Case**”) as to why the Debtor, Fernando Garza, had failed to pay the first installment of his filing fee, file his schedules, and file other required documents. At that hearing, the Debtor revealed that he did not wish to proceed with the Case and alleged that he had been tricked into filing it by New Horizon Abode LLC, Dannitess Matthey, Dennis Moreno, ESPI Properties LLC, and Crystal Barragan (collectively, “**Defendants**”). The Debtor claimed that the Defendants attempted to purchase his home, which was set for foreclosure. When it became clear that the Defendants could not close on such purchase before the foreclosure sale, to buy more time, one or more of the Defendants advised the Debtor to file the Case against his wishes. The Defendants allegedly assisted the Debtor in filing his petition, advised the Debtor that the bankruptcy would be a “ghost bankruptcy” that would simply stay the foreclosure and then be dismissed, and told the Debtor that he should not file any required documents, attend hearings, or speak to anyone else about the Case, including the Bankruptcy Clerk or the Court. Subsequently, the United States Trustee filed its *Complaint* (ECF No. 1) in this adversary proceeding against the Defendants, alleging the following:

1. The Defendants failed to identify themselves in any of the documents filed in the Underlying Case, in violation of 11 U.S.C. § 110(b)(1);
2. The Defendants failed to give written notice prior to preparing documents or accepting fees from the Debtor, in violation of 11 U.S.C. § 110(b)(2);
3. The Defendants failed to disclose the preparer’s identifying number, in violation of 11 U.S.C. § 110(c);

4. The Defendants improperly gave the Debtor legal advice by advising him to file bankruptcy, in violation of 11 U.S.C. § 110(e)(2);
5. The Defendants failed to file a declaration disclosing the fees they received from the Debtor for preparing the bankruptcy petition and other documents, in violation of 11 U.S.C. § 110(h)(2);
6. Because of the foregoing violations of 11 U.S.C. § 110, the Defendants should be permanently enjoined from acting as bankruptcy petition preparers pursuant to 11 U.S.C. §§ 110(j)(2)(A) and (B);
7. The Defendants advised the Debtor to make statements that were untrue or misleading in his petition and other documents, in violation of 11 U.S.C. § 526(a)(2);
8. The Defendants failed to advise the Debtor of the risks of filing bankruptcy, in violation of 11 U.S.C. § 526(a)(3)(B); and
9. The Defendants did not provide the disclosures required of debt relief agencies under 11 U.S.C. § 527 or comply with the requirements of 11 U.S.C. § 528.

To resolve the issues and causes of action raised by the UST in its *Complaint*, the Court has determined that it should open a miscellaneous proceeding. The parties to the miscellaneous proceeding will be Kevin M. Epstein, United States Trustee for Region 7, as movant, and the Defendants, as respondents. The *Complaint* (ECF No. 1) and *Summons* (ECF No. 2) filed in this adversary proceeding will be filed in the miscellaneous proceeding. Upon the opening of the miscellaneous proceeding and the transfer of those documents from this adversary proceeding thereto, this adversary proceeding will be closed. It is, therefore,

ORDERED that the Clerk of the Court shall open a miscellaneous proceeding to determine the issues raised in this *Order* and the United States Trustee's *Complaint*. It is further

ORDERED that the parties to the miscellaneous proceeding will be Kevin M. Epstein, United States Trustee for Region 7, as movant, and New Horizon Abode LLC, Dannitess Matthey, Dennis Moreno, ESPI Properties LLC, and Crystal Barragan, as respondents. It is further

ORDERED that the Clerk of the Court shall transfer and enter on the miscellaneous proceeding docket the *Complaint* (ECF No. 1) and *Summons* (ECF No. 2) currently filed on the docket in this adversary proceeding. It is further

ORDERED that after the Clerk of the Court has completed the foregoing, he shall close this adversary proceeding.

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